REMARKS

This response is made to the communication from the Patent Office dated February 1, 2011 (the Office Action). Currently, claims 1-19, 21, 25, 26 and 29 are pending, with claims 8, 9, 12, and 16-19 being withdrawn by the Examiner.

Claims 2, 6-9, 12, 16-19, and 29 are cancelled herein without prejudice.

Claim 1 was amended to recite the species elected for component A and to narrow the scope of the claimed internalizing component B to death-associated protein kinase (DAP-kinase, DAPk) and to DAP kinase-related protein kinase 1 (DRP-1) also named DAP-kinase 2 (DAPk2).

Applicant has voluntarily amended claim 1 to provide a scope that will greatly facilitate searching; examination is respectfully requested. Claim 3 was also narrowed to eliminate certain alternative embodiments. The Examiner previously created three Groups for restriction, referred to as An, Bn, Cn, with claim 1 being a linking claim, with the restriction requirement being withdrawn in the event of allowance of claim 1. Restriction Requirement August 7, 2010, page 5, first full ¶. Claims that require all the limitations of an allowable linking claim will be entered as a matter of right if the amendment is presented prior to final rejection or allowance. Id. Applicant has previously elected Group A_n having claims 2-15, 21, 25-26 and 29. Applicant has subsequently made a species election of: component A as antibodies, antibody derivatives, antibody fragments, and scFv structures; and component B as "DAPk2". The Office Action, in fact, did not apply any prior art for DAPk2 to the claims, and it is understood that all species presently claimed in claim 1 are being examined, i.e., DAPk and DAPk2. Claim 13 was amended to correct a typographical error.

Claims 2, 6-7, and 15 were objected at page 3 of the Office Action for comprising non-elected subject matter. These claims have been cancelled or amended accordingly. Claim 1 was

objected for repeating a phrase in the preamble and the body of the claims; this concern has been addressed by amendment. Claim 2 was objected for punctuation; the claim has been amended accordingly.

Claim 1 was rejected under 35 USC §112 ¶2 at page 3 of the Office Action for indefiniteness for "endogenous". This term has been removed. Claim 4 was rejected for indefiniteness for "component A is bound to the extracellular surface structure"; as amended, this plainly refers to the case wherein the antibody (or derivatives et al.) is bound to the extracellular surface structure. Claim 7 was rejected for indefiniteness but this claim has been cancelled.

Claims 1-7, 10, 13-14, 21, 25, 26, and 29 were rejected under 35 U.S.C. §112 ¶1 at page 3 of the Office Action for lack of written description because the claims encompassed components of essentially any structure and function. The amended claims plainly recite specific structure and it is believed that this rejection is moot. No admissions as to the Patent Office's arguments are made. Withdrawal of this rejection is requested.

Claims 1-7, 10, 13-14, 21, 25, 26, and 29 were rejected at page 7 of the Office Action under 35 U.S.C. §112 ¶1 for lack of enablement, with the rejection relating to the broad scope of the claims. The amended claims plainly recite specific structure and it is believed that this rejection is moot. No admissions as to the Patent Office's arguments are made. Withdrawal of this rejection is requested. This rejection, at page 7, introduces the Patent Office's argument that the term "derivative" can be constructed to mean literally "any compounds which share any structural feature or and functional feature with the recited component". This argument is based on analysis of the claims and is moot in light of the present amendments. Moreover, the term "derivative" is defined at Application page 21 and its scope in the context of DAPK is discussed at page 12.

Claims 1-7, 10, 13-14, 21, 25, 26, and 29 were rejected at page 10 of the Office Action under 35 U.S.C. §102(e) over US 7,419,811 and WO 2004/078215. The Examiner argues that a

DCK kinase anticipates a DAPk2 derivative. The Examiner's argument is premised on the construction of the term "derivative". Very respectfully, the Examiner's construction of the term "derivative" is plainly erroneous, as evidenced by the definitions provided above and also by the Dorland's Medical Dictionary definition of "derivative", attached. With all due respect there is, in fact, no meaningful structural or even functional relationship between the Examiner's asserted DCK and the claimed DAPK or DAPK2. They even have unrelated substrates, with DCK phosphorylation certain (deoxy)nucleosides and DAPK / DAPK2 targeting Ser/Thr. All of these facts are evidenced in the attached documents: (i) NCBI DCK Gene, (ii) Wikipedia DCK June 15, 2011, (iii) NCBI DAPK1 Gene, (iv) Wikipedia DAPK1 gene, (v) NCBI DAPK2 gene, (vi) Wikipedia DAPK2 June 15, 2011, and (vii) Cell Migration Consortium DAPK family June 17, 2011.

Favorable consideration and examination of the claims is respectfully requested.

Respectfully submitted,

/Curtis B. Herbert/
Curtis B. Herbert, Ph.D., Reg. #45,443

Customer No. 62274
Dardi & Herbert, PLLC
Moore Lake Plaza, Suite 205
1250 East Moore Lake Drive
Fridley, MN 55432
Telephone: (763) 412-3824